

## **Commissioners Meeting Minutes**

February 6, 2006

The Randolph County Board of Commissioners met in regular session at 4:00 p.m. in the Commissioners Meeting Room, County Office Building, 725 McDowell Road, Asheboro, NC. Commissioners Holmes, Lanier, Frye, Davis and Kemp were present. Rev. Wyatt Hoogkamp, High Pine Wesleyan Church, Asheboro, gave the invocation and everyone recited the Pledge of Allegiance.

### **Public Comment Period**

Pursuant to N.C.G.S. § 153A-52.1, Chairman Holmes opened the floor for public comment. No one spoke.

### **Approval of Consent Agenda**

*On motion of Davis, seconded by Frye, the Board voted unanimously to approve the Consent Agenda, as follows:*

- *approve 1/9/06 regular and 2 sets closed session meeting minutes;*
- *unseal closed session minutes from 9/6/05, 9/22/05 and 11/7/05 meetings;*
- *appoint Jack Smith to Liberty Planning Board (etj member);*
- *reappoint Arlie Culp, Sheela Wright, Kemp Davis, (regular members) and Billy Joe Allen (alternate member) and appoint Thomas Lawrence and Randall Spencer (alternate members) to the Voluntary Agriculture District Adv. Bd.;*
- *reappoint Donald Strider to the Seagrove-Ulah Metropolitan Water District Board.*

### **New Business Item Addition**

Chairman Holmes announced that *Item L. Adopt Resolution Concerning the Release of a Portion of Hopewell School Property From 2000 COPS to Allow For Sale to the Guil-Rand Fire Protective Association—Aimee Scotton* would be added to the New Business section of the agenda.

### **Update on Voluntary Agricultural District (VAD) Program**

Carolyn Langley, Randolph Cooperative Extension Director, and Kemp Davis, Chairman of the VAD Board, gave an update on the VAD Program. There are currently 53 farms in the program consisting of 6,886.15 acres of land across the county and new applications are received each month. The Board, which has met 6 times during the last year, reviews and approves farms for inclusion in the VAD. The Board has also approved a heavier, smaller VAD sign, a new marketing brochure, and has updated and approved a new application.

### **Long-Range Facility Plan Presentations from Randolph County and Asheboro City Schools**

Bob Scherer, Assistant Superintendent for Randolph County Schools, stated that the Schools Facilities Act of 1987 requires local boards of education to submit their long-range facility plans to the State Board of Education every five years. This submission calls for signed certification by the Randolph County Board of Commissioners that the plan was reviewed by the Commissioners. Mr. Scherer presented Randolph County Schools= plan, which included current and projected enrollment, capacity numbers, and projected needs for new schools, additions, and renovations, along with cost projections for these needs.

Mike Mize, Director of Maintenance and Facilities, Asheboro City Schools, presented the Asheboro City Schools= long-range facility plan, which included the same elements as those for the County Schools.

### **Public Hearing on 2006 Scattered Site Housing Community Development Block Grant**

David Townsend, III, Public Works Director, said that the NC Dept. of Commerce, Div. of Community Assistance will again have grant money available for Scattered Site Housing in 2006. Randolph County will be eligible for \$400,000 for a second time, and the Public Works Dept. anticipates being able to rehabilitate at least 7 homes. A public hearing (the first of 2 required) has been duly advertised for today's meeting at 4:30 p.m.

Chairman Holmes opened the public hearing; hearing no comments, the public hearing was closed.

### **Approval of Purchase Price for Property for New County School Site**

Donald Andrews, County Schools Superintendent, asked the board to approve the purchase price of \$899,395 for 128.22 acres on Mack Lineberry Road for the construction site of the new Northeast Randolph High School. Mr. Andrews said that the Randolph County Planning Board approved the special use zoning permit on 2/26/06.

*On motion of Lanier, seconded by Holmes, the Board voted unanimously to approve \$899,395 as the purchase price for 128.22 acres on Mack Lineberry Road for the construction site of the new Northeast Randolph High School.*

### **Annual Report from Regional Partnership Workforce Development Board**

David Smith, Workforce Development Board member, reviewed the 7/1/2004-6/30/2005 Annual Report of the Regional Partnership Local Area. He gave statistics regarding the number of *JobLink* clients that were served at the RCC site.

### **Approval of Criminal Justice Partnership Program Application, Contractual Agreement with Montgomery County and FY 06-07 Funding of Pre-Trial Release Program Position**

Pam Hill, Day Reporting Center (DRC) Director, asked the Board for their approval of the grant application for submission to the State for continuation of implementation funding for FY 2006-07. It is uncertain at this time whether full funding of this program will be available from the State. The application requests \$107,371 for Randolph County, but Ms. Hill said that she was concerned that this will be cut back when notification of awards is made for FY 2006-07. She also informed the Board about a change that will have a significant impact on the program, as a result of the past session of the NC Legislature. Effective with FY 2006-07, the enacted legislation eliminated the use of Criminal Justice Partnership Grant funds for the Pre-Trial Release program. Ms. Hill highlighted the Pre-Trial Release program's positive benefits to our community, especially the significant cost benefit to the county by releasing non-violent offenders on an unsecured or secured bond from the Randolph County jail to this closely supervised program. By not keeping these offenders in our jail prior to their trial, the County does not incur operating costs in housing them. In the first seven months of this fiscal year, the program saved over 8,500 bed days at the jail. The estimated savings during this period is \$512,940. Ms. Hill said that the County has never had to invest any County funds in the Day Reporting Center; there have always been state resources available to operate the various counseling services offered by the DRC. However, for these reasons, Ms. Hill asked the Board's help to consider the continuation of this program by funding the Pre-Trial Case Manager position with local dollars in FY 2006-07. The current salary and benefits of the Case Manager II position are \$41,426. Some additional costs for travel and supplies would also be incurred. In total, \$43,000 in local funding would allow the program to continue.

Ms. Hill also asked that the Board approve the contractual agreement with Montgomery County for the purpose of providing substance abuse treatment and educational services, transportation services,

employability/job search classes, and case management for pre-trial participants referred by the Adult Probation Officers and the Court.

Judge Bill Neely and Judge Scott Ethridge spoke in support of the Pre-trial Release Program. Rick Spencer, a former participant of the Pre-trial Release Program, praised the program for helping him get his life back on track by providing educational classes, encouragement, and supervision, all of which contributed to his current gainful employment.

*On motion of Kemp, seconded by Frye, the Board voted unanimously to approve the application, as presented, for the Randolph County Criminal Justice Partnership Program for FY 2006-07, to approve the contractual agreement with Montgomery County for another year and to retain the Pre-Trial Release Program case manager position in the FY 2006-07 budget as a County-funded position at a cost of \$43,000.*

### **Request for Pay Increases for All Sworn Officers in the Sheriff's Department**

Sheriff Litchard Hurley and Major Allen McNeill told the Board that the Sheriff's Department was losing many of its deputies to other agencies that pay more. They asked the Board for a 10% (minimum) raise for all sworn officers, effective immediately, at an estimated cost of approximately \$200,000 for the remainder of this fiscal year and \$600,000 per year beginning July 1, 2006. They also asked the Board to consider an incentives plan to reward their officers who have or eventually obtain post-secondary degrees.

An unidentified citizen, whose wife and mother work in the Sheriff's Department, spoke in support of the request.

*On motion of Frye, seconded by Davis, the Board voted unanimously to direct Kim Newsom, County Personnel Director, to calculate the exact cost for a 10% raise for all sworn deputies and to present this information to the Board at their March 13, 2006 meeting.*

### **Notification of Change in Home & Community Care Block Grant (HCCBG) Service Providers**

Candie Rudzinski, Executive Director, Randolph County Senior Adults Association, said that the Piedmont Triad Council of Governments has requested that she notify the Randolph County Board of Commissioners about the following change. Prior to December 31, 2005, the Volunteer Center of Randolph County (VCRC) was a program of the Greensboro Volunteer Center (GVC). All HCCBG reports were prepared by staff at the GVC and HCCBG reimbursement checks were sent to the GVC Center. Under the direction of Molly Keeney, the Director of the Greensboro Volunteer Center at that time, this system worked very well during the start-up years of the VCRC. However, the VCRC has grown both in staff size as well as in fundraising activities, projects and independent grants. In the past two years it has become increasingly more difficult for staff of the VCRC to handle business transactions and develop budgets from a home office located in Greensboro, NC. In addition, the GVC requested an increase in its administrative fee from \$5,000 in 2005 to \$10,000 in 2006. Due to the difficulties experienced in doing business through the GVC, and the proposed increase in administrative fees, the VCRC discussed these issues with participants in their recent strategic planning process. With strong recommendations to consider other options from the Strategic Planning Committee, members of the VCRC Board of Directors began discussions with the Randolph County United Way. The Randolph County United Way had already been assisting the VCRC by providing them with free office space as well as technical support on an as-needed basis. As a result of meetings between staff and board members of the VCRC, the GVC and the United Way of Randolph County, the VCRC entered into an agreement with the United Way of Randolph County. Effective January 1, 2006, the Volunteer Center of Randolph County is now a program of the United Way of Randolph County (UWRC). The VCRC will

continue to have free office space, technical assistance, financial support, etc., with no administrative fee.

### **Closed Session—Economic Development**

*At 6:00 p.m., on motion of Frye, seconded by Davis, the Board voted unanimously to go into closed session to discuss matters relating to the location or expansion of business in the area, pursuant to N.C.G.S.143-318.11(a)(4).*

At 6:20 p.m. the Board returned to open session.

### **Approval of Resolution Concerning Release of Hopewell School Property For Sale to Guil-Rand Fire Protective Association**

Aimee Scotton, Associate County Attorney, presented a resolution to the Board that is needed concerning the release of a portion of the Hopewell School property from the 2000 COPS to allow the sale of the property to the Guil-Rand Fire Protective Association.

*On motion of Frye, seconded by Davis, the Board voted unanimously to approve a “Resolution Concerning the Release Of Portion of Hopewell School Property From 2000 Cops to Allow For the Sale of Said Property to the Guil-Rand Fire Protective Association,” as follows:*

**WHEREAS**, the Guil-Rand Fire Protective Association (hereinafter referred to as “Guil-Rand” has approached the County of Randolph (hereinafter referred to as the “County”) with an offer to purchase a two-acre tract on the front right corner of the Hopewell School property, acquired by the County and more properly described as follows:

*BEING all of that certain two- (2-) acre lot located along the Northern right-of-way line of Welborn Road (NCSR# 1556), more fully described in that certain plat recorded at Plat Book 101, Page 24 Randolph County Registry, which description is incorporated by reference as if set out herein in full. Said lot is bounded on the north, east and west by the lands of the County of Randolph and on the south by the right-of-way of the said Welborn Road. For back deed reference see Deed Book 1653, Page 1039, Randolph County Registry; and*

**WHEREAS**, Guil-Rand wishes to purchase this property in order to secure funding and construct a new fire station; and

**WHEREAS**, by resolution passed on November 7, 2005, the Randolph County Board of Commissioners agreed to approve the sale of said two- (2-) acre tract to the Guil-Rand Fire Protective Association; and

**WHEREAS**, the Hopewell School property is one of five (5) tracts providing security for the 2000 COPS arrangement as set out in the Deed of Trust recorded at Deed Book 1653, Page 1048, Randolph County Registry; and

**WHEREAS**, in order to effect an unencumbered sale of the above-referenced two- (2-) acre tract to the Guild-Rand Fire Protective Association, it is necessary to first secure the release of said tract from the 2000 COPS Deed of Trust referenced above and related documents.

**NOW, THEREFORE, BE IT RESOLVED** that the Randolph County Board of Commissioners hereby requests that the 2000 COPS Trustee and Bond Insurer approve the release of the two- (2-) acre tract more specifically described above from serving as security for the 2000 COPS arrangement and directs that bond counsel be directed to prepare and record documents to effect said release upon receipt of the necessary approvals.

### **Public Hearing and Approval of Randolph County Unified Development Ordinance Amendments**

At 6:30 p.m. Chairman Holmes opened the duly advertised public hearing regarding proposed amendments to the Randolph County Unified Development Ordinance.

**Hal Johnson**, County Planning Director, said that the 2005 N.C. General Assembly, adopted two major bills, SB518 and SB814, that amend the state=s planning and development regulation statutes. Consequently, it is necessary for the new legislative language to be adopted and placed into the County=s Unified Development Ordinance. These new state laws are effective January 1, 2006. Mr. Johnson summarized the proposed amendments. He also mentioned that the Randolph County Planning Board considered these amendments at their January 10, 2006 meeting and voted unanimously to recommend that they be approved.

Hearing no further comments, the public hearing was closed.

*On motion of Frye, seconded by Davis, the Board voted unanimously to approve amendments to the Randolph County Unified Development Ordinance, as follows:*

***Adopting Ordinance - Amend to read:***

***Section 6.*** *This Ordinance is enacted pursuant to the authority granted by N.C.G.S. 153A-322(d). Unless expressly provided otherwise, Randolph County may apply any of the definitions and procedures authorized by law to any of all aspects of the unified ordinance and may employ any organizational structure, board, commission, or staffing arrangement authorized by law to any or all aspects of the ordinance.*

***CHAPTER 1. Definitions - Amend to read:***

***Subdivision:*** *means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets with certain exceptions which are listed hereafter in Article IV, Sec. 2* ***Subdivision Definition and Exceptions.***

***Chapter 2. Zoning Ordinance - Amend to read:***

***Article VII District Regulations, Section 2. Conditional Districts, Paragraph 1***

*It will be noted that a Conditional Zoning District (bearing the designation CD) corresponds to each of the other districts authorized in this Zoning Ordinance. It is recognized by Randolph County that certain types of zoning districts would be inappropriate at particular locations in the absence of clearly defined conditions. Such districts may include, but shall not be limited to, general use districts, in which a variety of uses are permissible in accordance with general standards; overlay districts, in which additional requirements are imposed on certain properties within one or more underlying general use districts; and conditional zoning districts, in which site plans and individualized development conditions are imposed.*

***Article VII District Regulations, Section 2. Conditional Districts, Paragraph 2***

*Property may be placed in a conditional district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to these districts may be proposed by the petitioner or the County or its agencies, but only those conditions mutually approved by the county and the petitioner may be incorporated into the zoning regulations or permit requirements. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to County ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.*

***Article VII District Regulations, Section 2. Conditional Districts, New Paragraph 4***

*The procedure for granting Conditional Zoning Districts shall be the same legislative process required of the Board of County Commissioners as outlined in Article XIII, Section 4, and as authorized by Section 6 of S.L. 2005-426 (S.814) amendments to G.S. 153A-342.*

***Article VII District Regulations, Section 5. Special Uses, 5.2 Procedures, Paragraph 4***

*The Planning Director shall set and advertise a date and time for a public hearing before the Planning Board. Notice of such hearing shall run in a newspaper of general local circulation at least 10 days before the date set for the public hearing, but not more than 25 days before the public hearing. The second notice must appear in a separate calendar week.*

***Article VII District Regulations, Section 5. Special Uses, 5.2 Procedures, New Paragraph 6***

*No vote greater than a majority vote shall be required for the Board of Commissioners or Planning Board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered >members of the board= for calculation of the requisite majority. When deciding special use permits, the Planning Board shall follow quasi-judicial procedures. The Board Chairman, Planning Director, or Clerk to the Planning Board shall be authorized to administer the required oath prior to receiving testimony.*

***Article VII District Regulations, Section 5. Special Uses, 5.2 Procedures, Paragraph 8***

*The Planning Board or the Board of Commissioners may issue special use permits in the classes of cases or situations and in accordance with the principles, conditions, safeguards and procedures specified therein and may impose reasonable and appropriate conditions and safeguards upon these permits.*

***Article XII Board of Adjustment, Section 2. Number of Members; Appointment, New Paragraph 2***

*The Board of Commissioners may, in its discretion, appoint and provide compensation for alternate members to serve on the board on the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member.*

***Article XII Board of Adjustment, Section 4. Vacancies, New Paragraph 2***

*For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered >members of the board= for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.*

***Article XII Board of Adjustment, New Section 7. Conflicts of Interest***

*A member of the board or any other body exercising the functions of a board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons= constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member= participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.*

***Article XII Board of Adjustment, Section 11. Powers of the Board of Adjustment (b) New Paragraph 3***

*When practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. No change in permitted uses may be authorized by variance. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the board. These regulations provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained, provided no change in permitted uses may be authorized by variance.*

***Article XII Board of Adjustment, Section 11. Powers of the Board of Adjustment (c)***

*The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment may apply to the General*

*Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board of Adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trail of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person, who while under oath during a proceeding before the Board of Adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor.*

***Article XIII Administrative and Legal Provisions, Section 4. Changes and Amendments (a)***

*No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. A notice of such public hearing shall be given once a week for two consecutive calendar weeks in a newspaper of general circulation in Randolph County. The first such publication shall not be less than ten (10) days preceding the date set for such public hearing, but not more than 25 days before the public hearing. The second notice must appear in a separate calendar week. Such public hearing may be adjourned from time to time or from place to place as Board of County Commissioners may deem desirable. Notice shall also be provided by first class mail to owners of property adjoining the subject property. Such notice shall be mailed at least 10 days before the hearing date.*

***Article XIII Administrative and Legal Provisions, Section 4. Changes and Amendments, New Paragraph (b-i, m,n)***

- b) The first-class mail notice required under subsection (a) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the county may elect to use the expanded published notice provided for in this subsection. Randolph County may elect to either make the mailed notice provided for in subsection (a) of the section or may as an alternative elect to publish notice of the hearing as required by G.S. 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page size. The advertisement shall only be effective for the property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.*
- c) When a zoning map amendment is proposed, the County shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the County shall post sufficient notices to provide reasonable notice to interested persons.*
- d) Subsequent to initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may proceed in its consideration of the amendment without the Planning Board report. The governing board is not bound by the recommendations, if any, of the Planning Board.*
- e) Members of appointed boards providing advice to the Board of County Commissioners shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.*
- f) The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.*
- g) A member of the Board of Commissioners shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member*

- h) *A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a conditional district or other small-scale rezoning.*
- i) *Prior to adopting or rejecting any zoning amendment, the governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest.*
- m) *It is the intent of this ordinance that the applicant for rezoning to any district other than a Conditional Zoning District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property.*  
*If the applicant believes that development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise made the rezoning more in accordance with principles underlying the Randolph County Growth Management Plan, he shall apply for rezoning to the appropriate Conditional Zoning District specifying the nature of his proposed development.*
- n) *Requests for Conditional Zoning Districts as authorized by this chapter shall be processed and considered in the same procedure as set forth in this chapter for rezoning requests and the voting procedure shall be the same as that required in zoning matters. Any Conditional Zoning District so authorized shall be perpetually binding upon the property unless subsequently changed or amended by the County Commissioners as provided for in this Chapter.*  
*Any violation of a term or condition of a Conditional Zoning District shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.*

***Article XIII Administrative and Legal Provisions. New Section 5. Moratoria***

*Randolph County may adopt temporary moratoria on any county development approval required by law. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160A-364. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160A-417 is outstanding, to any project for which a conditional use permit application or special use permit application has been accepted, to development set forth in a site-specific or phased development plan approved pursuant to G.S. 160A-385.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the County prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the County prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.*

*Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:*

- a) *A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the County and why those alternative courses of action were not deemed adequate.*
- b) *A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.*
- c) *An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.*
- d) *A clear statement of the actions, and the schedule for those actions, proposed to be taken by the County during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.*



*No moratorium may be subsequently renewed or extended for any additional period unless the County shall have taken all reasonable and feasible steps proposed to be taken by the County in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (a) through (d) of this subsection, including what new facts or conditions warrant the extension.*

*Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the County shall have the burden of showing compliance with the procedural requirements of this subsection.*

### **CHAPTER 3. Subdivision Ordinance - Amend to read:**

#### **Article IV Legal Provisions, Section 2. Subdivision Definition and Exceptions**

*a) A subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:*

- 1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in its subdivision regulations.*
- 2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.*
- 3) The public acquisition by purchases of strips of land for the widening or opening of streets or for public transportation system corridors.*
- 4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the County, as shown in its subdivision regulations.*
- 5) The division of property among heirs for the sole purpose of settling an estate or court-ordered division or settlement.*

---

#### **Article IV Legal Provisions, New Section 12. Pre-sale Contracts GS 153A-334(b)**

*The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not been properly approved under the Subdivision Ordinance or recorded with the Register of Deeds, provided the contract does all of the following:*

- a) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver a copy of the recorded plat prior to closing and conveyance.*
- b) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.*
- c) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.*
- d) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any*

*earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.*

*The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds.*

#### ***Article IV Legal Provisions, New Section 13. Enforcement***

*Any person who, being the owner or agent of the owner of any land located within the jurisdiction of the County, thereafter subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The county may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance. Building permits require pursuant to G.S. 160A-417 may be denied for lots that have been illegally subdivided. In addition to other remedies, a county may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.*

***Article V Procedure for Approval of Preliminary and Final Plats for Subdivisions, Section 1. Review and Approval Process For Major Subdivisions.*** *In most instances, a major subdivision will require rezoning into a classification other than Residential Agricultural (RA). Randolph County Growth Management policies require that County Planning staff maintain a formal review process for major subdivision proposals. The following is a list of the submittal and review process:*

- a) A completed Preliminary Plat/Subdivision application shall be submitted along with all additional information such as deed restrictions, maintenance agreements, permission letter from property owner, etc.*
- b) In-office review of the application packet by the Planning staff.*
- c) Technical Review Committee shall meet and provide recommendations to the developer.*
- d) Planning staff shall meet the developer and surveyor on the site. The required and/or recommended changes from the Technical Review Committee are reviewed. The developer is then notified of the cut-off for the revised plans and filing of rezoning application forms.*
- e) New plat and application for property rezoning, along with fee, are submitted to the Planning Department.*
- f) The Neighborhood Information Meeting for the request is scheduled.*
- g) The Technical Review Committee reviews comments and recommendations made during the Neighborhood Information Meeting. The Planning staff provides additional recommendations to the developer and/or their representative based on Technical Review Committee review.*
- h) The Planning Board Public Meeting (which results in recommendations to the County Commissioners).*
- i) The Board of Commissioners Public Hearing (Final authority on property rezoning).*
- j) Improvements and Certificates. No final plat shall be approved until all improvements are installed or their execution guaranteed as set forth in this Ordinance and all certificates required for final plats by this Ordinance or approvals and by state law have been properly completed and signed.*
- k) Recordation. The approval of the final plat by the Planning Director shall be on condition that such plat be recorded in the Office of Register of Deeds within 60 days after approval.*

---

***Article VII Improvements Required Prior to Approval of Final Plats, Section 2. Guarantee of Improvements.***

*To assure compliance with these and other ordinance requirements, the Ordinance shall provide for performance guarantees to assure successful completion of required improvements. If a performance guarantee is required, the County shall provide a range of options of types of performance guarantees, including surety bonds or irrevocable letters of credit, from which the developer may choose. For any specific development, the type of performance guarantee from the range specified by the County shall be at the election of the developer.*

**Article VII Improvements Required Prior to Approval of Final Plats, Section 4. Required Improvements (d) Utilities.**

*All utilities shall be installed underground as required by the Randolph County Hazard Mitigation Plan. If placing the utilities underground is not possible, the developer must submit a letter from the utility provider or an engineer detailing the obstacles to placing utilities underground.*

**Rezoning Public Hearing**

At 6:55 p.m. the Board adjourned to a duly advertised public hearing to consider a rezoning request. Hal Johnson, Planning & Zoning Director, presented the following request:

**IAI PROPERTIES**, Sophia, North Carolina, is requesting that 30.41 acres located on Branson Davis Road, New Market Township, be rezoned from RA to CVOE-CU. Secondary Growth Area. Randleman Lake Watershed. Tax ID# 7746417560. The proposed Conditional Use Zoning District would specifically allow the development of a 14-lot residential subdivision for site-built homes with a minimum house size of 1,400 sq. ft. The Planning Board reviewed this request at public meeting on January 10, 2006, and unanimously recommended that this request be denied. The Board noted that the cul-de-sac of the new state road was located within the buffer requirements of a stream and was not consistent with storm water and watershed regulations of Randolph County. No representative of the property owner or developer attended the Neighborhood Information meeting or the County Planning Board meeting. Since the Planning Board meeting, the applicant has filed a new plan with the Planning Department where the proposed new state road is no longer located within the buffer area of the creek. With the new plan, the proposed rezoning is now consistent with the following standards and policies contained within the Unified Development Ordinance and Growth Management Plan:

Standards Established within the Unified Development Ordinance supporting approval of this request:

1. Location within a Secondary Growth Area is designed primarily for conventional subdivision development.
2. Lot sizes and design standards exceed minimum County standards.

Policies within the Growth Management Plan supporting approval of this request:

Policy 6.5 The protection of viable rural neighborhoods should be encouraged by compatible residential development to insure the continued existence as a major housing source and as a reflection of the long-term quality of life in Randolph County.

Policy 6.13 Conventional Residential Subdivisions are anticipated of similar housing characteristics to the community.

Policy 6.14 Residential subdivisions should, in order to promote efficiencies in the delivery of urban services, be encouraged to develop in a fashion which minimizes leap frog development (i.e. leaving large vacant areas between developments).

However, Mr. Johnson also noted that the drain fields for the septic systems are located in an area where a section of the new Interstate 311 may be built; final approval of the exact Interstate route is pending.

Chairman Holmes opened the public hearing.

**Jerry King**, Surveyor, said that he was representing the applicant. He said that the off-site septic systems are now commonly used. He also commented on the good set of restrictions that will be recorded.

**Albert Yancey**, 4946 Branson Davis Rd., had septic concerns since there is a nearby creek. He also was concerned about increased traffic. He said there was a very bad curve near the proposed entrance. He also had concerns about what would happen if the new highway came through and took the drain fields.

Chairman Holmes closed the public hearing.

*On motion of Davis, seconded by Kemp, the Board voted unanimously to refer the request back to the Planning Board for their consideration of the new site plan and to address the possibility of the new highway taking the drain field area.*

#### **Budget Amendment—Health**

Will Massie, County Finance Officer, said that the Health Department has received \$3,200 in additional funding from the NC Dept. of Health and Human Services—Office of public Health Preparedness and Response. These funds will be used to purchase guides, logo wear and handheld radios for the BT Program.

*On motion of Davis, seconded by Frye, the Board voted unanimously to approve Budget Amendment #22, as follows:*

<b>2005-2006 BUDGET ORDINANCE--GENERAL FUND--AMENDMENT # 22</b>		
<b>Revenues</b>	<b>Increase</b>	<b>Decrease</b>
<i>Restricted Intergovernmental</i>	<i>\$ 3,200</i>	
<b>Appropriations</b>	<b>Increase</b>	<b>Decrease</b>
<i>Public Health</i>	<i>\$ 3,200</i>	

#### **Budget Amendment—Health**

Will Massie, County Finance Officer, said that the Health Department has received \$7,046 in additional funding from the NC Dept. of Health and Human Services—Women's & Children's Health Section due to an increase in the cost per participant allocation for the State Contract Year 2005. These funds will be used in the WIC Programs.

*On motion of Frye, seconded by Davis, the Board voted unanimously to approve Budget Amendment #23, as follows:*

<b>2005-2006 BUDGET ORDINANCE--GENERAL FUND--AMENDMENT # 23</b>		
<b>Revenues</b>	<b>Increase</b>	<b>Decrease</b>
<i>Restricted Intergovernmental</i>	<i>\$ 7,046</i>	
<b>Appropriations</b>	<b>Increase</b>	<b>Decrease</b>
<i>Public Health</i>	<i>\$ 7,046</i>	

#### **Budget Amendment—Emergency Telephone System Fund**

Will Massie, County Finance Officer, said that Randolph County contracts with Sprint to provide automatic location identification of a cellular telephone user who makes an emergency 9-1-1 telephone call. The location can be updated in the 9-1-1 system as the caller moves. The renewal of this service

contract was inadvertently omitted in the original 2005-06 Emergency Telephone System Fund budget; therefore, an amendment is necessary to add the cost to the Wireless budget. The entire cost for this service will be \$13,600 for the year and will be funded by the wireless surcharge revenues.

*On motion of Davis, seconded by Kemp, the Board voted unanimously to approve Budget Amendment #24, as follows:*

<b>2005-2006 BUDGET ORDINANCE—EMERGENCY TELEPHONE SYSTEM FUND--AMENDMENT # 24</b>		
<b>Revenues</b>	<b>Increase</b>	<b>Decrease</b>
<i>Appropriated Fund Balance</i>	\$ 13,600	
<b>Appropriations</b>	<b>Increase</b>	<b>Decrease</b>
<i>Wireless</i>	\$ 13,600	

#### **Budget Amendment—HRSA Bioterrorism Preparedness Grant**

Will Massie, County Finance Officer, said that Randolph County has received a \$31,847 grant from the North Carolina Office of Emergency Services. This grant will be used to help meet critical benchmarks defined by the Federal Health Resources and Services Administration. The funds will be used for personal protective equipment, surveillance and patient tracking, education and preparedness training, and SMAT trailer supplies. There is no local match required.

*On motion of Kemp, seconded by Frye, the Board voted unanimously to approve Budget Amendment #25, as follows:*

<b>2005-2006 BUDGET ORDINANCE--GENERAL FUND--AMENDMENT # 25</b>		
<b>Revenues</b>	<b>Increase</b>	<b>Decrease</b>
<i>Restricted Intergovernmental</i>	\$ 31,847	
<b>Appropriations</b>	<b>Increase</b>	<b>Decrease</b>
<i>Emergency Services</i>	\$31,857	

#### **Approval of Resolution Regarding Randleman Dam Water Treatment Plant**

Commissioner Frye said that Randolph County needs to adopt a resolution declaring its intent to be a part of the discussion and planning for the construction of a water treatment plant at the Randleman Dam. He presented a resolution for the Board's consideration.

*Frye made a motion, which was seconded by Kemp, to adopt the proposed resolution. Following discussion about some of the specific language in the resolution, Frye and Kemp amended their respective motion and second to adopt a "Resolution Approving Agreement Among Governmental Subdivisions Establishing Treated Water Allocation And The Percentage Of Payment Of Debt Service To Finance The Construction Of The Randleman Water Treatment Plant, Water Transmission Lines, And Related Facilities," as follows:*

**WHEREAS**, in 1987 the Cities of Archdale, Greensboro, High Point, Randleman, the Town of Jamestown, and the County of Randolph, by Joint Governmental Agreement among themselves and the Piedmont Triad Regional Water Authority, created a consortium for the purpose of acquiring land and constructing a dam and lake for the purpose of providing a public treated water supply;

**WHEREAS**, as a part of that Agreement, each of the aforementioned governmental entities were allocated a percentage of the raw water from the Lake and agreed to share in the construction of the project pursuant to their portion of the raw water allocation;

**WHEREAS**, the Dam is now complete and it is the intent of the parties to provide for financing of the construction of a water treatment plant, water transmission lines, and related facilities;

**WHEREAS**, a majority of the members of the Piedmont Triad Regional Water Authority have expressed an interest in having treated water available by the year 2010.

**WHEREAS**, the parties intend to enter into an additional Agreement pursuant to N.C.G.S. 162A-6(b) for the construction of the water treatment facility based upon the same raw water allocations contained in the 1987 Joint Governmental Agreement, as amended;

**NOW THEREFORE, BE IT RESOLVED** that the County of Randolph hereby agrees and assures the Piedmont Triad Regional Water Authority, or other issuing governmental entity agreed to by all parties, that it is its intention to pay its percentage share for the bonded indebtedness incurred for the cost of construction of the Randleman Dam Water Treatment Facility, water transmission lines, and related facilities for the initial and for each subsequent phase of said treatment facility and related facilities, and in such event will pay over such funds necessary for the same on a timely basis to the Authority, or other issuing governmental entity, for retirement of necessary bonded indebtedness, according to the following schedule:

For agreed upon percentage of treated water allocation for the initial and for each subsequent phase of the water treatment plant and related facilities:

City of Archdale	4.6%
City of Greensboro	53.1%
City of High Point	19.0%
Town of Jamestown	2.5%
City of Randleman	2.1%
Randolph County	<u>18.7%</u>
	100.0%

For water transmission lines and related facility construction:

City of Archdale	10.85%
City of Greensboro	52.95%
City of High Point	13.34%
Town of Jamestown	1.75%
City of Randleman	2.28%
Randolph County	<u>18.83%</u>
	100.00%

**BE IT FURTHER RESOLVED** that this resolution and any obligations contained herein are expressly contingent upon the Randolph County Board of Commissioners' future acceptance and approval of any contractual documents subsequently submitted regarding the securing of financing for these projects.

### **Adjournment**

There being no further business, the meeting adjourned at 8:00 p.m.

---

J. Harold Holmes, Chairman

---

Darrell L. Frye

---

Phil Kemp

---

Robert B. Davis

---

Arnold Lanier

---

Cheryl A. Ivey, Deputy Clerk to the Board